

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SENTRY SELECT INSURANCE
COMPANY,

Plaintiff,

v.

NORCOLD, INC., et al.,

Defendants.

Case No. 1:21-cv-00521-JLT-SAB

ORDER RE: STIPULATED MOTION TO
MODIFY SCHEDULING ORDER

(ECF Nos. 15, 23, 25, 28)

This action was removed to this Court on March 29, 2021. (ECF Nos. 1, 2.) On May 27, 2021, a scheduling order issued, which was modified two times, on June 6, 2022, and October 21, 2022. (ECF Nos. 15, 23, 25.) No trial date is currently set as this action was previously assigned under the “NONE” designation with no District Judge assigned. On January 12, 2023, the parties filed a stipulated motion to modify the scheduling order. (ECF No. 24.) The Court denied the motion, however, on the basis that the parties’ proffer of good cause was essentially the same as the proffer they submitted in support of the previous motion to modify the schedule, with no indication as to what discovery was completed since the last modification to the schedule or any other showing of diligence by the parties (compare ECF No. 26 at 2 with ECF No. 24 at 2). (ECF No. 27.) The denial was without prejudice to the filing of a renewed supported by declarations or affidavits proffering specific facts establishing good cause to extend the deadlines.

1 Currently before the Court is the parties' renewed stipulated motion to modify the
2 scheduling order, filed on January 18, 2023. (ECF No. 28.) Though this matter is not currently
3 set for trial, the parties propose a trial date. Through the supporting declarations of counsel and
4 attached exhibits, the parties proffer this is an insurance subrogation case arising from a large
5 commercial fire loss, which involves complex issues of product liability and large economic
6 damages, property damages and business interruption losses due to the fire. (ECF No. 28-1 at 2;
7 ECF No. 28-2 at 1–2.) The parties also detail much of the discovery that has been sought and/or
8 completed. For example, the parties have exchanged substantial information through initial
9 disclosures, and have met and conferred regarding ways to reduce the scope of disputed issues
10 related to liability and Plaintiff's alleged damages in advance of a private mediation. In
11 September, Witness Christopher Chaney was served with a subpoena and document request for a
12 deposition set in October; however, due to scheduling conflicts, the deposition was continued to
13 November. The parties are currently proceeding with non-party depositions that were originally
14 contemplated for November and December, but were continued to January due to the limited
15 availability of defense counsel due to pre-trial activity in another matter. The parties are also
16 focusing on the priority of discovery that is essential for mediation, which the parties are
17 currently coordinating; thus far, the parties have agreed to proceed in private mediation with
18 Superior Court Judge Richard L. Gilbert in Sacramento as the mediator; the parties have reserved
19 March 20, 2023 for the mediation conference. Thus, the parties proffer they largely seek the
20 instant modification of the schedule to permit time to attend private mediation in order to reduce
21 the number of disputed issues, including expert witness issues, prior to the discovery and
22 dispositive motion complete dates. The Court finds good cause exists to grant the parties'
23 stipulated motion.

24 Accordingly, good cause appearing, IT IS HEREBY ORDERED that the parties'
25 stipulated motion to modify the schedule (ECF No. 28) is GRANTED. The scheduling order is
26 further modified as follows:

- 27 1. Nonexpert Discovery Deadline: **May 15, 2023;**
- 28 2. Expert Disclosure Deadline: **June 15, 2023;**

3. Supplemental Expert Disclosure Deadline: **July 10, 2023**;
4. Expert Discovery Deadline: **August 11, 2023**;
5. Dispositive Motion Deadline: **October 6, 2023**;
6. Pretrial conference: **December 4, 2023** at **1:30 p.m.** in **Courtroom 4** before **District Judge Jennifer L. Thurston**; and
7. Trial: **February 27, 2024** at **8:30 a.m.** in **Courtroom 4** before **District Judge Jennifer L. Thurston**.

IT IS SO ORDERED.

Dated: **January 19, 2023**


UNITED STATES MAGISTRATE JUDGE